

REMARKS:

Claims 47-66 are currently pending in the application. Claims 1-46 have been previously cancelled without prejudice. Claims 47-66 stand rejected under 35 U.S.C. § 112, first paragraph. Claims 47-66 stand rejected under 35 U.S.C. § 103(a) over U.S. Patent No. 5,861,885 to Strasnick et al. ("*Strasnick*") in view of U.S. Patent No. 6,628,312 to Rao et al. ("*Rao*") in further view of U.S. Patent No. 5,461,708 to Kahn ("*Kahn*") and in further view of U.S. Patent No. 6,529,217 to Maguire, III et al. ("*Maguire*").

Although the Applicants believe that claims 47-66 are directed to patentable subject matter and are in condition for allowance without amendment. The Applicants have amended claims 47, 48, 52-57, 60-64, and 66 and canceled claims 49 and 57, without prejudice, in an effort to expedite prosecution of this Application and to more particularly point out and distinctly claim the subject matter which the Applicants regard as the invention. By making these amendments, the Applicants make no admission concerning the merits of the Examiner's rejection, and respectfully denies any statement or averment of the Examiner not specifically addressed. Particularly, the Applicants reserve the right to file additional claims in this Application or through a continuation patent application of substantially the same scope of originally filed claims 47-66. No new matter has been added.

REJECTION UNDER 35 U.S.C. § 112:

Claims 47-66 stand rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. The Applicants respectfully disagree.

Nonetheless, the Applicants have amended claims 47, 48, 52-57, 60-64, and 66 and canceled claims 49 and 57, without prejudice, in an effort to expedite prosecution of this Application and to more particularly point out and distinctly claim the subject matter which the Applicants regard as the invention. By making these amendments, the Applicants do not indicate agreement with or acquiescence to the Examiner's position with respect to the rejections of these claims under 35 U.S.C. § 112, as set forth in the Office Action.

The Applicants respectfully submit that amended independent claims 47, 55, and 63, and dependent claims 48, 50-54, 56, 58-62, and 64-66 are considered to be in full compliance with the requirements of 35 U.S.C. § 112. The Applicants further submit that claims 47, 48, 50-56, and 58-66 are in condition for allowance. Thus, the Applicants respectfully request that the rejection of claims 47-66 under 35 U.S.C. § 112 be reconsidered and that claims 47, 48, 50-56, and 58-66 be allowed.

In addition, the Applicants respectfully request that the Examiner call the undersigned at (817) 447-9955, if the Examiner has additional comments or suggestions to the 35 U.S.C. § 112 rejection of the subject Application or if the Examiner believes it would be easier to discuss the 35 U.S.C. § 112 rejection over the telephone.

REJECTION UNDER 35 U.S.C. § 103(a):

Claims 47-66 stand rejected under 35 U.S.C. § 103(a) over *Strasnick* in view of *Rao* in further view of *Kahn* and in further view of *Maguire*.

Although the Applicants believe that claims 47-66 are directed to patentable subject matter and are in condition for allowance without amendment. The Applicants have amended claims 47, 48, 52-57, 60-64, and 66 and canceled claims 49 and 57, without prejudice, in an effort to expedite prosecution of this Application and to more particularly point out and distinctly claim the subject matter which the Applicants regard as the invention. By making these amendments, the Applicants do not indicate agreement with or acquiescence to the Examiner's position with respect to the rejections of these claims under 35 U.S.C. § 103(a), as set forth in the Office Action.

The Applicants respectfully submit that *Strasnick*, *Rao*, *Kahn*, or *Maguire* either individually or in combination, fail to disclose, teach, or suggest each and every element of claims 47-66. Thus, the Applicants respectfully traverse the Examiner's obvious rejection of claims 47-66 under 35 U.S.C. § 103(a) over the proposed combination of *Strasnick*, *Rao*, *Kahn*, and *Maguire*, either individually or in combination.

The Proposed *Strasnick-Rao-Kahn-Maguire* Combination Fails to Disclose, Teach, or Suggest Various Limitations Recited in Applicants Claims

For example, with respect to amended independent claim 47, this claim recites:

A computer graphical user interface system comprising:
a database operable to store hierarchically organized data associated with a multi-dimensional hierarchy of data; and
a multi-dimensional graphical user interface coupled to the database and capable of user interaction to provide a multi-dimensional user interactive graph comprising:
a multi-dimensional axes data hierarchy including a top layer hierarchy associated with a first axis dimension, a top layer hierarchy associated with a second axis dimension, and a top layer hierarchy associated with a third axis dimension; and
a unique bottom layer hierarchy including a plurality of function values associated with each of the top layer hierarchies of the multi-dimensional axes data hierarchy; and
a multi-dimensional value hierarchy associated with each of the function values of the multi-dimensional axes data hierarchy.
(Emphasis Added).

Amended independent claims 55 and 63 recite similar limitations. *Strasnick, Rao, Kahn*, or *Maguire*, either individually or in combination, fail to disclose, teach, or suggest each and every element of amended independent claims 47, 55, and 63.

The Applicants respectfully submit that *Strasnick* has nothing to do with amended independent claim 47 limitations regarding a “**computer graphical user interface system**” and in particular *Strasnick* has nothing to do with amended independent claim 47 limitations regarding “**a multi-dimensional axes data hierarchy including a top layer hierarchy associated with a first axis dimension, a top layer hierarchy associated with a second axis dimension, and a top layer hierarchy associated with a third axis dimension; and a unique bottom layer hierarchy including a plurality of function values associated with each of the top layer hierarchies of the multi-dimensional axes data hierarchy**”. Rather, *Strasnick* discloses a navigation system containing graphical objects and uses the term “axis” in association with the navigation system. (Abstract and Column 1, Lines 40-50). However, *Strasnick* only uses the term axis to refer to an x axis width and a y axis height of one or more graphical objects in the display such that **a navigator may alter the navigator’s perspective of the information landscape**

by adjusting the x or horizontal dimension relative to the viewpoint of the navigator.
(Column 16, Lines 33-63).

Strasnick does not disclose, teach, or suggest a multi-dimensional axes data hierarchy, or even a navigation system that is capable of including a unique bottom layer hierarchy including a plurality of function values associated with each of the top layer hierarchies associated with multiple axis dimensions. Thus, *Strasnick* cannot provide a **“computer graphical user interface system”** or even **“a multi-dimensional axes data hierarchy including a top layer hierarchy associated with a first axis dimension, a top layer hierarchy associated with a second axis dimension, and a top layer hierarchy associated with a third axis dimension; and a unique bottom layer hierarchy including a plurality of function values associated with each of the top layer hierarchies of the multi-dimensional axes data hierarchy”**, since *Strasnick* merely describes adjusting the perspective of the information landscape by adjusting the x or horizontal dimension relative to the viewpoint of the navigator.

The Applicants further submit that the Office Action acknowledges that *Strasnick* fails to disclose the emphasized limitations noted above in amended independent claim 47. Specifically the Examiner acknowledges that *Strasnick* fails to disclose **“the claim limitation of ‘axes’ and hierarchies within the claim limitation of ‘a bottom layer hierarchy associated with the top layer hierarchies of the multi-dimensional axes data hierarchy.’**” (1 November 2005 Office Action, Page 12). However, the Examiner asserts that the cited portions of *Rao* disclose the acknowledged shortcomings in *Strasnick*. The Applicants respectfully disagree. The Applicants respectfully traverse the Examiner’s assertions regarding the subject matter disclosed in *Rao*.

The Applicants respectfully submit that *Rao* has nothing to do with amended independent claim 47 limitations regarding a **“computer graphical user interface system”** and in particular *Rao* has nothing to do with amended independent claim 47 limitations regarding “a multi-dimensional axes data hierarchy including a top layer hierarchy associated with a first axis dimension, a top layer hierarchy associated with a second axis dimension, and a top layer hierarchy associated with a third axis dimension;

and ***a unique bottom layer hierarchy including a plurality of function values associated with each of the top layer hierarchies of the multi-dimensional axes data hierarchy***”.

In particular, the Examiner equates “***a unique bottom layer hierarchy including a plurality of function values associated with each of the top layer hierarchies of the multi-dimensional axes data hierarchy***” recited in amended independent claim 47 with the “two-dimensional visual model” disclosed in *Rao*. (1 November 2005 Office Action, Page 12). The Applicants respectfully disagree. In fact, the “two-dimensional visual model” in *Rao* is only associated with a first dimension associated with either a horizontal or a vertical axis, (1 November 2005 Office Action, Page 12), and has nothing to do with “a multi-dimensional axes data hierarchy including a top layer hierarchy associated with a first axis dimension, a top layer hierarchy associated with a second axis dimension, and a top layer hierarchy associated with a third axis dimension; and ***a unique bottom layer hierarchy including a plurality of function values associated with each of the top layer hierarchies of the multi-dimensional axes data hierarchy***”. In contrast, the “***unique bottom layer hierarchy including a plurality of function values associated with each of the top layer hierarchies of the multi-dimensional axes data hierarchy***”, recited in amended independent claim 47 is associated with “a top layer hierarchy associated with a first axis dimension, a top layer hierarchy associated with a second axis dimension, and a top layer hierarchy associated with a third axis dimension”, not a “two-dimensional visual model”. *Rao* cannot provide “***a unique bottom layer hierarchy including a plurality of function values associated with each of the top layer hierarchies of the multi-dimensional axes data hierarchy***”, since *Rao* does not teach, suggest, or even hint at anything more than a mere “two-dimensional visual model”, in the first place. Thus, the Applicants respectfully submit that the equations forming the foundation of ***the Examiner’s comparison of the combination of Strasnick and Rao to amended independent claim 47, of the subject Application, cannot be made***. The Applicants further respectfully submit that these distinctions alone are sufficient to patentably distinguish amended independent claim 47 from *Strasnick and Rao*.

The Applicants respectfully submit that the Office Action has failed to properly establish a *prima facie* case of obviousness based on the proposed combination of *Strasnick, Rao, Kahn, and Maguire*, either individually or in combination. The Office Action has not shown the required teaching, suggestion, or motivation in these references or in knowledge generally available to those of ordinary skill in the art at the time of the invention to combine *Strasnick, Rao, Kahn, and Maguire* as proposed. The Office Action merely states that “it would have been obvious to one of the ordinary skill in the art at the time of invention was made to have incorporated Rao's data visualization method because Strasnick implicitly discloses hierarchy being displayed on a ground plane of the information with respect to the x-axis and y-axis.” (1 November 2005 Office Action, Page 13). The Applicants respectfully disagree.

The Applicants further submit that this purported advantage relied on by the Examiner is nowhere disclosed, taught, or suggested in *Strasnick, Rao, Kahn, or Maguire*, either individually or in combination. In essence, the Examiner asserts that one of ordinary skill in the art at the time of the invention would have been motivated “because this allows the multiple dimension visual model being used to clearly present the data set to the user as organized in multiple levels along the multiple axis with each member being labeled.” (1 November 2005 Office Action, Page 15). The Applicants respectfully disagree. ***The Applicants respectfully request the Examiner to point to the portions of Strasnick, Rao, Kahn, or Maguire which contain the teaching, suggestion, or motivation to combine Strasnick, Rao, Kahn, or Maguire for the Examiner's stated purported advantage.*** The Applicants further submit that the Examiner is using the subject Application as a template to formulate reconstructive hindsight, which constitutes impermissible use of hindsight under 35 U.S.C. § 103(a).

A recent Federal Circuit case makes it crystal clear that, in an obviousness situation, the ***prior art must disclose each and every element of the claimed invention***, and that ***any motivation to combine or modify the prior art must be based upon a suggestion in the prior art.*** *In re Lee*, 61 U.S.P.Q.2d 1430 (Fed. Cir. 2002). (Emphasis Added). Conclusory statements regarding common knowledge and common sense are insufficient to support a finding of obviousness. *Id.* at 1434-35. With respect to

the subject Application, ***the Examiner has not adequately supported the selection and combination of Strasnick, Rao, Kahn, or Maguire to render obvious the Applicants claimed invention.*** The Examiner's conclusory statements that "it would have been obvious to one of the ordinary skill in the art at the time of invention was made to have incorporated Rao's data visualization method because Strasnick implicitly discloses hierarchy being displayed on a ground plane of the information with respect to the x-axis and y-axis." and "because this allows the multiple dimension visual model being used to clearly present the data set to the user as organized in multiple levels along the multiple axis with each member being labeled", ***does not adequately address the issue of motivation to combine.*** (1 November 2005 Office Action, Pages 13-15). This factual question of motivation is material to patentability, and cannot be resolved on subjective belief and unknown authority. *Id.* It is improper, in determining whether a person of ordinary skill would have been led to this combination of references, simply to "[use] that which the inventor taught against its teacher." *W.L. Gore v. Garlock, Inc.*, 721 F.2d 1540 (Fed. Cir. 1983). Thus, ***the Office Action fails to provide proper motivation for combining the teachings of Strasnick, Rao, Kahn, or Maguire***, either individually or in combination.

The Applicants Claims are Patentable over the Proposed *Strasnick-Rao-Kahn-Maguire* Combination

With respect to amended independent claims 55 and 63, each of these claims includes limitations similar to those discussed above in connection with amended independent claim 47. Thus, amended independent claims 55 and 63 are considered patentably distinguishable over the proposed combination of *Strasnick, Rao, Kahn, or Maguire* for at least the reasons discussed above in connection with amended independent claim 47.

With respect to dependent claims 48, 50-54, 56, 58-62, and 64-66: claims 48 and 50-54 depend from amended independent claim 47; claims 56 and 58-62 depend from amended independent claim 55; and claims 64-66 depend from amended independent claim 63. As mentioned above, each of amended independent claims 55 and 63 include limitations similar to those discussed above in connection with amended independent

claim 47. Thus, dependent claims 48, 50-54, 56, 58-62, and 64-66 are considered patentably distinguishable over the proposed combination of *Strasnick, Rao, Kahn*, or *Maguire* for at least the reasons of depending from an allowable claim and are therefore considered to be in condition for allowance.

For at least the reasons set forth herein, the Applicants submit that claims 47, 48, 50-56, and 58-66 are not rendered obvious by the proposed combination of *Strasnick, Rao, Kahn*, or *Maguire*, or in knowledge generally available to those of ordinary skill in the art at the time of the invention. The Applicants further submit that claims 47, 48, 50-56, and 58-66 are not rendered obvious by the proposed combination of *Strasnick, Rao, Kahn*, or *Maguire*, or in knowledge generally available to those of ordinary skill in the art at the time of the invention, and are in condition for allowance. Thus, the Applicants respectfully request that the rejection of claims 47, 48, 50-56, and 58-66 under 35 U.S.C. § 103(a) be reconsidered and that claims 47, 48, 50-56, and 58-66 be allowed.

THE LEGAL STANDARD FOR OBVIOUSNESS REJECTIONS UNDER 35 U.S.C. § 103:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, ***there must be some suggestion or motivation***, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) ***must teach or suggest all the claim limitations***. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and ***not based on applicant's disclosure***. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991); M.P.E.P. § 2142. Moreover, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (CCPA 1974). If an independent claim is nonobvious under 35 U.S.C. § 103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988); M.P.E.P. § 2143.03.

With respect to alleged obviousness, there ***must be something in the prior art as a whole to suggest the desirability***, and thus the obviousness, ***of making the combination***. *Panduit Corp. v. Dennison Mfg. Co.*, 810 F.2d 1561 (Fed. Cir. 1986). In fact, the absence of a suggestion to combine is dispositive in an obviousness determination. *Gambro Lundia AB v. Baxter Healthcare Corp.*, 110 F.3d 1573 (Fed. Cir. 1997). The mere fact that the prior art can be combined or modified does not make the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 U.S.P.Q.2d 1430 (Fed. Cir. 1990); M.P.E.P. § 2143.01. The consistent criterion for determining obviousness is whether the prior art would have suggested to one of ordinary skill in the art that the process should be carried out and would have a reasonable likelihood of success, viewed in the light of the prior art. Both the suggestion and the expectation of success must be founded in the prior art, not in the Applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991); *In re O'Farrell*, 853 F.2d 894 (Fed. Cir. 1988); M.P.E.P. § 2142.

A recent Federal Circuit case makes it clear that, in an obviousness situation, the prior art must disclose each and every element of the claimed invention, and that any motivation to combine or modify the prior art must be based upon a suggestion in the prior art. *In re Lee*, 61 U.S.P.Q.2d 1430 (Fed. Cir. 2002). Conclusory statements regarding common knowledge and common sense are insufficient to support a finding of obviousness. *Id.* at 1434-35.

CONCLUSION:

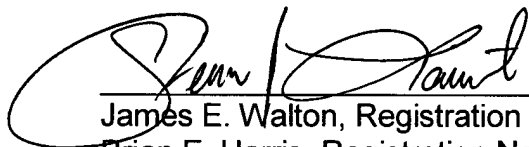
In view of the foregoing amendments and remarks, this application is considered to be in condition for allowance, and early reconsideration and a Notice of Allowance are earnestly solicited.

Although Applicants believe no fees are deemed to be necessary; the undersigned hereby authorizes the Commissioner to charge any additional fees which may be required, or credit any overpayments, to **Deposit Account No. 500777**.

Please link this application to Customer No. 53184 so that its status may be checked via the PAIR System.

Respectfully submitted,

2/1/06
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